

### **REMARKS/ARGUMENTS**

Applicant has carefully reviewed and considered the Office Action mailed on June 5, 2009, and the references cited therewith.

Claims 32, 33, and 51 are amended and no claims are cancelled or added in the present response; as a result, claims 1, 3-29, 31-33, 47, 48, 50, and 51 are now pending in this application.

#### **Examiner's Interview Summary**

Applicant thanks Examiner Lang for the courtesy of a telephone interview conducted on April 9, 2010. Applicant's representative and the Examiner discussed the present after appeal amendment to be filed before filing of an appeal brief in order to present rejected claims in better form for consideration on appeal. Examiner Lang was very helpful in confirming that Applicant could file the present amendment to correct claim dependency issues before filing an appeal brief. No specific agreement was reached concerning allowability.

#### **Remarks on the Claims and Procedural Posture**

Applicant filed a Notice of Appeal for the present case on February 23, 2010. Applicant has not yet filed an Appeal brief for the present case. According to 37 C.F.R. § 41.33, "Amendments filed after the date of filing an appeal pursuant to § 41.31(a)(1) through (a)(3) and prior to the date a brief is filed pursuant to § 41.37 may be admitted as provided in § 1.116 of this title." According to 37 C.F.R. § 1.116 (b)(2), "An amendment presenting rejected claims in better form for consideration on appeal may be admitted." Applicant respectfully submits that the present amendment presents rejected dependent claims 32, 33, and 51 in better form for consideration on appeal because the present amendment corrects a dependency error for claims 32, 33, and 51.

Claims 32, 33, and 51 are currently amended in order to correct an error in their dependency. As previously presented, claims 32, 33, and 51 depended from

cancelled dependent claim 30, which was cancelled in a previous response during prosecution. Applicant previously amended the subject matter of claim 30 into independent claim 1. Accordingly, Applicant has amended dependent claims 32, 33, and 51 to depend from independent claim 1.

Applicant respectfully submits that the amendments presented herein to not change the substance of the claims that will be presented for appeal and that the present amendment only corrects a previous oversight made by Applicant's representative regarding claim dependency during prosecution. Accordingly, Applicant respectfully requests that the present amendment be entered for purposes of appeal.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's below listed attorney at (612) 236-0132 to facilitate prosecution of this matter.

**CERTIFICATE UNDER 37 CFR §1.8:** The undersigned hereby certifies that this correspondence is being filed electronically with the U.S. Patent and Trademark Office on this 9 day of April, 2010.

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Respectfully Submitted,  
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